

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

JELANI BARR

PLAINTIFF

VS.

CIVIL ACTION NO.: 4:17cv089-DMB-JMV

**PERRY L. HINES, FORMER DETECTIVE OF
THE GREENWOOD, MISSISSIPPI POLICE
DEPARTMENT, IN HIS INDIVIDUAL
CAPACITY**

DEFENDANT

NOTICE OF REMOVAL

TO: Ronald W. Lewis, Esq.
404 Galleria Lane, Suite 5
P.O. Box 2729
Oxford MS 38655

Tom Calhoun, Esq.
LAW OFFICE TOM P. CALHOUN, III., INC.
103 Fulton Street
Greenwood MS 38930

Attorneys for Plaintiff

COMES NOW, Defendant, Perry L. Hines, (“Defendant”), by and through undersigned counsel, and hereby removes this cause from the Circuit Court of Leflore County, Mississippi to the United States District Court for the Northern District of Mississippi, Greenville Division, and, in support hereof, would show unto the Court the following:

1. Defendant desires to exercise their rights pursuant to 28 U.S.C. § 1441 *et. seq.* to remove this action from the Circuit Court of Leflore County, Mississippi, where it is now pending, to the United States District Court for the Northern District of Mississippi, Greenville Division.

2. On or about May 18, 2017, Plaintiff, Jelani Barr, (“Plaintiff”), commenced a civil action entitled: *Jelani Barr v. Perry L. Hines, former detective of the Greenwood, Mississippi*

Police Department, in his individual capacity, Civil Action No.: 2017-0029-CICI, in the Circuit Court of Leflore County, Mississippi. Defendant Perry L. Hines was served on or about June 14, 2017.

3. The basis for removal of this action is the existence of a federal question and the allegation of constitutional rights being deprived on the face of Plaintiff's Complaint which gives this Court jurisdiction pursuant to the First Amendment, Fourth Amendment, Fourteenth Amendment, 42 U.S.C. § 1983 and 42 U.S.C. § 1988 of the United States Constitution. (*Plaintiff's Complaint: ¶1, ¶22, and ¶23*). When this Court has original jurisdiction over one or more of Plaintiff's claims, it "shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution." 28 U.S.C. § 1367(a). To the extent Plaintiff's complaint may assert state law claims, any such purported claims alleged in Plaintiff's Complaint "arise out of a common nucleus of operative fact with [the federal claims such that they] 'form part of the same case or controversy under Article III of the United States Constitution.'" *Cornett v. Longois*, 275 F.3d 42 (5th Cir. 2001) (quoting 28 U.S.C. Section 1367(a)). As such, to the extent Plaintiff's complaint may assert to state law claims, any such purported claims this Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. Section 1367(a). Accordingly, this action may be removed to this Court pursuant to the provisions of 28 U.S.C. Section 1441c(1)(A) and (B).

4. For all of the reasons set forth above, and pursuant to the provisions of 28 U.S.C. § 1441 *et seq.* and 28 U.S.C. § 1331, this case may be removed to the United States District Court for the Northern District of Mississippi, Greenville Division, based on this matter being a civil action arising under the laws of the United States (*i.e.*, 42 U.S.C. § 1983).

5. Attached as *Exhibit "A"* is a copy of all process, pleadings, and orders served upon Defendant, as required by 28 U.S.C. § 1446(a).

6. Pursuant to 28 U.S.C. § 1446(a) and L.U. Civ. R. 5, Defendant attaches as *Exhibit "B"* herewith and incorporates by reference a copy of the Leflore County Circuit Court record for Cause No. 2017-0029-CICI.

7. This Notice of Removal is being served upon Plaintiff by mail this date and a Notice of Filing Notice of Removal is being promptly filed with the Clerk of the Court for the Circuit Court of Leflore County, Mississippi, pursuant to 28 U.S.C. § 1446(d). A copy of said Notice of Filing is attached as *Exhibit "C"*.

8. This Notice of Removal is filed within thirty (30) days of service of process on Defendant, Perry L. Hines.

9. By filing this Notice of Removal, Defendant has not and does not waive any defenses he might assert or his right to bring any application anywhere in relation to this litigation or its subject matter.

WHEREFORE, Defendant prays that this action be removed to this Court and this Court accept jurisdiction of this action in its entirety and henceforth that this action be placed on the docket of the Court for further proceedings, the same as though this action originally had been instituted in this Court.

THIS, the 23rd day of June, 2017.

Respectfully submitted,

PHELPS DUNBAR, LLP

BY: /s/ Mark Fijman

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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

The undersigned attorney does hereby certify that I, Mark Fijman, have this date electronically filed the above and foregoing *NOTICE OF REMOVAL* with the Clerk of the Court using the CM/ECF system which sent notification of such filing and I hereby certify that I have mailed through the United States Postal Service, postage prepaid, a true and correct copy of the above and foregoing to all counsel of record:

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ATTORNEYS FOR PLAINTIFF

Honorable Margaret Carey-McCray
Leflore County Circuit Court
P.O. Box 1775
Greenville MS 38702-1315

LEFLORE COUNTY CIRCUIT COURT JUDGE

THIS, the 23rd day of June, 2017.

/s/ Mark Fijman

MARK FIJMAN